



THE STATE OF FLORIDA

OFFICE OF INSURANCE REGULATION MARKET INVESTIGATIONS

MARKET CONDUCT FINAL EXAMINATION REPORT

OF

NEW YORK LIFE INSURANCE COMPANY

ISSUED

DECEMBER 16, 2014

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EXECUTIVE SUMMARY

In June 2006, the Florida Legislature enacted the Freedom to Travel Act, which modified Florida's Unfair Trade Practices Act by placing prohibitions on life insurance limitations upon an individual based solely on the individual's past lawful foreign travel or future lawful travel plans. The Florida Unfair Trade Practices Act also prohibits the refusal to insure, or continue to insure, based on the individual's race, color, creed, marital status, sex, or national origin.

Rule 69D-2, Florida Administrative Code became effective in October 2006 to implement the provisions of Section 626.9891, Florida Statutes. This rule requires a higher level of detail and accountability for Insurer Anti-Fraud Special Investigative Unit (SIU) Description filings and Insurer Anti-Fraud Plan filings.

The following represent general findings, however, specific details are found in each section of the report.

<u>TABLE OF TOTAL VIOLATIONS</u>			
Statute/Rule	Description	Files Reviewed	Number of Violations
626.9891, FS and 69D-2.003, FAC	Failure to notify DFS of changes to personnel assigned to the SIU	1	1

PURPOSE AND SCOPE OF EXAMINATION

The Office of Insurance Regulation (Office), Market Investigations, conducted a target market conduct examination of New York Life Insurance Company (Company) pursuant to Section 624.3161, Florida Statutes. The examination was performed by Examination Resources, LLC. The scope period of this examination was January 1, 2013 through December 31, 2013. The examination was conducted offsite. The examination began June 16, 2014 and ended October 13, 2014.

The purpose of this examination was to review compliance with Sections 626.9541(1)(dd), 626.9541(1)(g), 626.9541(1)(x) and 626.9891, Florida Statutes and Rules 69O-125.003 and 69D-2, Florida Administrative Code.

The examination included a review of the following:

- Life application files to determine if an application was denied, issued in a manner other than applied for, or terminated solely on the individual's past or future lawful foreign travel experiences, or on the applicant's national origin.
- Administrative and underwriting files for issued policies to determine if the policy was terminated, canceled or rescinded, or had a benefit change based solely on the individual's past or future lawful foreign travel experiences, or on the applicant's national origin.

- Reinsurance agreements to verify if any of the agreements place any limitations as a result of individual's past or future lawful foreign travel experiences, or on the applicant's national origin.
- Anti-Fraud Plans to verify filing and implementation.

In reviewing materials for this final report, the examiner relied on records provided by the Company. Procedures and conduct of the examination were in accordance with the *Market Regulation Handbook* produced by the National Association of Insurance Commissioners.

COMPANY OPERATIONS

New York Life Insurance Company is a foreign Life and Health insurer licensed to conduct business in the State of Florida on May 15, 1929. The Company provides Life, Accident and Health, Variable Annuities, Credit Life, Credit Disability, and Group Life and Annuities Insurance coverages in the State of Florida.

Total Direct Premiums Written in Florida for Life Insurance was as follows:

Year	Total Written Premium In Florida (Per Schedule T of the Annual Statement)
2013	\$257,542,735

LIFE APPLICATION REVIEW

I. FILE REVIEW

The examiners reviewed information contained in the Company's individual life underwriting files, which could have included but not been limited to the application, amendments, field underwriting guidelines, telephone interviews, questionnaires, underwriting notes, correspondence with agents and consumers, medical records, financial information, and the Company's Agent training materials.

The Company used applications and questionnaires that contained travel related questions; however, travel is not used in the underwriting process.

Applications:

The Company received 832,532 applications for life insurance coverage during the scope period; 10,622 applications were subject for review. A sample of 232 was selected for review. No violations were found.

Policy Benefit Change:

There were 8,707 benefit changes subject to review. A sample of 198 was selected for review. No violations were found.

Canceled Policies:

There were 108 cancellations subject to review. A sample of 82 was selected for review. No violations were found.

II. COMPLETENESS AND ACCURACY TEST

The purpose of this review was to determine if any policy that was not subject to the review was completely and accurately reported in the data files provided by the Company.

A sample of 25 applications that were issued in the best rating tier as noted in the data files, was reviewed to confirmed they were issued in the best rating tier. No violations were found.

A sample of 25 cancellations was reviewed to verify that the reason for cancelation was as reported correctly by the Company. No violations were found.

In addition, the data files provided by the Company were compared to the annual survey responses submitted by the Company. No violations were found.

UNDERWRITING MANUAL REVIEW

Underwriting guidelines were reviewed to determine if past and/or future travel and the applicant's national origin are included in the guidelines, and if so, determine if any restrictions are placed on Florida residents. Although underwriting guidelines were present relating to past and/or future travel and the applicant's national origin, the guidelines were not applied in Florida.

REINSURANCE AGREEMENTS REVIEW

Reinsurance agreements were reviewed to determine if the contracts contain provisions relating to past and/or future travel and the applicant's national origin. The reinsurance agreements did contain provisions relating to past and/or future travel or the applicant's national origin; however, the provisions were not applied in Florida.

ANTI-FRAUD REVIEW

The purpose of this review was to determine if the Company has filed and/or updated (if staffing changes occurred) with the Division of Insurance Fraud (DIF), a description of

the Insurer Anti-fraud Investigative Unit (SIU) or an Insurer Anti-fraud Plan pursuant to Section 626.9891, Florida Statutes, and Rule 69D-2.001-005 Florida Administrative Code. In addition, the review included verification that the Company has established and implemented procedures to detect potentially fraudulent activity, reporting all suspected insurance fraud acts directly to the Fraud Division and that staff is being properly trained.

There was 1 violation found.

1. **In one instance the Company failed to notify DIF of changes to personnel assigned to the SIU. This is a violation of Section 626.9891, Florida Statutes and Rule 69D-2.003, Florida Administrative Code.** The names provided on Form DFS-LI-1689, of record with DIF, do not match the names provided in the Company's SIU organizational chart.

The referenced statute requires, among other things, that the Company provide to DIF, a written description or a chart outlining the organizational arrangement of responsible personnel. Further, the Rule states that the insurer's filing of the information required shall constitute an acceptable anti-fraud plan as required by Section 626.9891, Florida Statutes. To meet the requirements of "an acceptable plan," the list or chart at DIF must contain the names of the currently responsible personnel.

CORRECTIVE ACTION: The Company should update the description of its SIU and ensure that the DIF is notified promptly of personnel changes of the Company's SIU.

COMPANY RESPONSE: The Company disagreed with the finding and stated that "New York Life hired an investigator in February 2013 and updated its anti-fraud plan in April 2014 notifying the Department of the change. The two other employees referenced are not investigators. They are Corporate Audit Department employees who assist the SIU at their direction." In addition, the Company stated "the rule and statute do not require the Company to notify the Department of changes to its SIU". The Company also stated "regardless, going forward, the Company will promptly notify the Department of any changes to its SIU".

EXAMINATION FINAL REPORT SUBMISSION

The Office hereby issues this report as the Final Report, which is based upon information from the examiner's draft report, additional research conducted by the Office, and additional information provided by the Company.